

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MEGHAN ABBOTT,

Plaintiff,

v.

WELSPUN INDIA LTD., and WELSPUN USA
INC.,

Defendants.

CASE NO. 1:16-cv-06792-AT-DCF

ECF Case

HAROLD BROWER, JUDI TALILI, and
SAMUEL JIVIDEN,

Plaintiffs,

v.

WELSPUN INDIA LTD., and WELSPUN USA,
INC.,

Defendants.

CASE NO. 1:16-cv-07318-AT-DCF

ECF Case

URSULA KEEP,

Plaintiff,

v.

WELSPUN INDIA LTD., and WELSPUN USA,
INC.,

Defendants.

CASE NO. 1:16-cv-09133-AT-DCF

ECF Case

JOINT STATUS REPORT

The parties to the above-captioned cases (together with *Aasgaard v. Welspun USA, Inc.*, Case No. 16-cv-1408 (E.D. Mo.), the “Cases”) submit this joint status report as requested by the Court in its November 7, 2016 Order (Dkt. 26). The *Keep* case was filed after this Court’s November 7 Order, but counsel for the *Keep* plaintiff has conferred with the parties and is a signatory to this Joint Status Report. Counsel for all Plaintiffs have met and conferred with

counsel for Defendant Welspun USA Inc. (“WUSA”), and they (the “Parties”) collectively submit this Joint Status Report:

1. STATE OF THE PLEADINGS AND PLAINTIFFS’ PLAN FOR FILING A CONSOLIDATED AMENDED COMPLAINT AND LEAD COUNSEL

Consolidation. The Parties agree that the Cases should be consolidated in this Court. The Cases are all premised on substantively analogous facts and law, and seek relief against the same parties. Accordingly, Plaintiffs in *Abbott*, *Brower*, and *Keep*, all pending in this Court, stipulate to consolidate into a single action and to file a consolidated amended complaint. The *Aasgaard* Plaintiffs, whose case is currently pending in the Eastern District of Missouri, are currently working with Plaintiffs in *Abbott*, *Brower*, and *Keep* on a consolidated amended complaint and an agreed upon leadership structure before this Court. By no later than December 9, 2016, the Counsel in *Aasgaard* will voluntarily dismiss their case in the Eastern District of Missouri, with all parties bearing their own fees and costs, and pursue their claims through the consolidated amended complaint that will be filed before this Court. Additionally, Plaintiffs will submit a proposed leadership structure for the Court's consideration.

Interim Lead Counsel. Plaintiffs could not agree to a stipulated leadership arrangement to prosecute the anticipated consolidated action. There are at least two competing leadership groups. Plaintiffs respectfully request the Court set a deadline to file motions for interim lead counsel under Rule 23(g) by December 9, 2016, with responses to any such leadership motions due by December 16, 2016. The *Brower* Plaintiffs propose that replies be due by December 23, 2016. All other plaintiffs believe that a motion and a response is sufficient. Once interim lead counsel for Plaintiffs is appointed, all Plaintiffs agree to file a single, consolidated amended complaint on behalf of all Plaintiffs within thirty days of the lead counsel appointment.

JPML Proceedings. In exchange for the agreements set forth above, WUSA agrees to withdraw its Motion to Transfer Actions to the Southern District of New York for Coordinated and/or Consolidated Pretrial Proceedings pending before the Judicial Panel on Multidistrict Litigation within five days of the *Aasgaard* Plaintiffs dismissing their complaint. WUSA reserves and does not waive the right to bring additional JPML proceedings with respect to related lawsuits commenced hereafter, if any.

2. SERVICE UPON DEFENDANT WELSPUN INDIA, LTD.

Although they have not done so to date, Plaintiffs are working diligently on serving Defendant Welspun India, Ltd. (“WIL”) with process. India is a signatory to the Hague Convention and has designated the Ministry of Law and Justice, Department of Legal Affairs as the central authority to process service requests. Plaintiff Abbott has hired experts in the area to assist in completing service. Plaintiff Abbott anticipates approximately six months from the filing of an amended complaint to complete service.

3. THE MONAHAN MATTER AND RELATED SUITS

Since the November 7 Order, another suit has been filed in this Court involving analogous claims and common underlying facts. Brought by the same counsel of the *Abbott* Plaintiffs, the complaint in *Monahan v. Wal-Mart Stores Inc.*, Case No. 16-cv-8662-AT-DCF, asserts claims against Wal-Mart for the sale of allegedly mislabeled Egyptian cotton products manufactured by Welspun. Although the *Monahan* complaint refers to Welspun and raises the same core allegations as the pending *Abbott*, *Aasgaard*, *Brower*, and *Keep* matters, it does not name Welspun as a defendant. The *Monahan* case has been designated “related” to *Abbott* and is currently pending before Judge Torres and Your Honor. The *Monahan* Plaintiffs have agreed to coordinate their suit for discovery, scheduling and other pretrial purposes with the to-be-

consolidated *Abbott*, *Aasgaard*, *Brower*, and *Keep* cases. Welspun and Wal-Mart reserve and do not waive the right to seek consolidation of the *Monahan* matter with the Cases after they review the contemplated consolidated amended complaint in the Cases.

4. PROPOSED SCHEDULING & DISCOVERY PLAN

Coordination. The Parties agree that the Cases and *Monahan* should be coordinated in this Court for all pretrial purposes, including discovery and case management, as these actions are premised on substantively analogous facts and law.

WUSA's Response Deadline. The Parties further agree that WUSA will have sixty (60) days from the filing of the consolidated amended complaint in the Cases to answer or otherwise respond to that amended complaint. In the meantime, no defendant shall have any obligation to respond to or address any complaint in any of the Cases or in *Monahan*.

Cross-Jurisdictional Plan. The need to submit a cross-jurisdictional plan for coordination of discovery has been mooted by WUSA's agreement to withdraw its pending MDL petition in exchange for (1) the *Aasgaard* Plaintiffs' agreement to dismiss their action pending in the Eastern District of Missouri case and transfer to the S.D.N.Y. to be consolidated with *Abbott* (the earliest filed case), (2) agreement by Plaintiffs in *Abbott*, *Brower*, *Keep* and *Aasgaard* to file a consolidated amended complaint, and (3) agreement by Plaintiffs in all actions involving Welspun Egyptian cotton products to coordinate discovery before this Court.

Case Management Plan. The Parties respectfully suggest that upon selection of interim lead counsel for Plaintiffs, the Court order lead counsel to propose to Defendants a discovery plan within 10 days of filing the consolidated amended complaint, and order the Parties to submit a case management plan to the Court within 45 days of receiving that proposal.

5. SUMMARY OF STIPULATED SCHEDULE

To summarize the above, the Parties agree to the following:

- The consolidation of the *Abbott*, *Aasgaard*, *Keep*, and *Brower* matters into a single action pending before this Court.
- The filing of opening briefs on the selection of interim lead plaintiffs' counsel in that consolidated action to be due on or before December 9, 2016, with opposition briefing due on or before December 16, 2016. If the Court desires replies, the deadline should be December 23, 2016.
- The filing of a single, consolidated amended complaint (the "CAC") within thirty (30) days of the issuance of an order selecting interim lead counsel. That complaint shall consolidate the current *Abbott*, *Aasgaard*, *Brower*, and *Keep* matters.
- No defendant shall have any obligation to respond to any complaint in the *Abbott*, *Aasgaard*, *Brower*, *Keep*, and *Monahan* matters until sixty (60) days following the filing of the CAC.
- Within ten (10) days of the filing of the CAC, Plaintiffs shall propose to Defendants a Case Management Plan, including a discovery plan ("CMP"), and within forty-five (45) days of the filing of the CAC, the Parties shall jointly submit a CMP to this Court.
- The *Monahan* matter will be coordinated for all pretrial purposes, including scheduling and discovery, with the consolidated actions in *Abbott*, *Aasgaard*, *Brower*, and *Keep*.

Dated: December 5, 2016.

Respectfully submitted,

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